

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

- against -

COLLECTOR'S COFFEE INC., et al.,

Defendants.

19-CV-4355 (VM)

ORDER

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VICTOR MARRERO, United States District Judge.

The Court has received the motion by non-party witness Susie Youn ("Youn") to quash the trial subpoena (the "Subpoena") that Defendant Mykalai Kontilai ("Kontilai") served on her on September 28, 2023. (See Notice of Mot., Dkt. No. 1326; Memorandum of Law in Support of Mot. ("Motion"), Dkt. No. 1327); Memorandum of Law in Response to Mot. ("Resp."), Dkt. No. 1344); Reply Memorandum of Law in Support of Mot. ("Reply"), Dkt. 1374). Youn's Motion is hereby **DENIED**.


Youn's motion argues that the Court must quash the Subpoena because it commands testimony at a trial in New York, it was served at Youn's home in Boulder, Colorado, and trial subpoenas cannot compel the attendance at a location more than 100 miles away from the place of service pursuant to Fed. R. Civ. P. 45(c). (See Motion at 3-4.) Section 27 of the

Securities Exchange Act of 1934 permits nationwide service of subpoenas for witnesses in an action commenced by the Securities and Exchange Commission ("SEC"). See 15 U.S.C. § 78aa(a). Section 27 is clear that the portion of Rule 45 relied upon by Youn "shall not apply" in SEC enforcement actions like this one. 15 U.S.C. § 78aa(a). The cases cited by Youn were not brought by the SEC and are distinguishable on that basis alone.

The Court declines to consider the reasons to quash the subpoena raised for the first time in Youn's Reply. See Individual Rules of Practice of Victor Marrero, § II.D.1 ("The Court will not consider new matters raised in replies for the first time.").

Accordingly, it is hereby **ORDERED** that non-party witness Susie Youn's motion to the quash the subpoena served on her on September 28, 2023, is **DENIED**. The Clerk of Court is respectfully directed to terminate the motion entered at Dkt. No. 1326.

Dated: 29 November 2023
New York, New York



Victor Marrero
U.S.D.J.